

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

L'LONI BUSH-LOMBARDI

Plaintiff,

V.

JOHNSON CONTROLS, INC.

Defendant.

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§
§
§

CIVIL ACTION NO. _____

JURY

EXHIBIT B
STATE COURT PLEADINGS AND OTHER DOCUMENTS

Certified Copies of State Court Pleadings and Other Documents:

1. Civil Process Request form and Civil Bureau Process Pick-up form;
2. Plaintiff's First Original Petition
3. Defendant Johnson Controls, Inc.'s Original Answer

Filed 11 February 15 A11:04
Chris Daniel - District Clerk
Harris County
ED101J016178408
By: Furshilla McGee

CIVIL PROCESS REQUEST

2011-09502 / Court: 133

FOR EACH PARTY SERVED YOU MUST FURNISH 1 COPY OF THE PLEADING
FOR WRITS FURNISH 2 COPIES OF THE PLEADING PER PARTY TO BE

SERVED

CASE NUMBER: _____ CURRENT COURT: _____

INSTRUMENT TO BE SERVED (see reverse for types): Plaintiff's Original Petition

FILE DATE OF MOTION: _____
Month/Day/Year

SERVICE TO BE ISSUED ON (please list exactly as the name appears in the pleading to be served):

NAME: Johnson Controls, Inc.

ADDRESS: 350 North St. Paul Street, Dallas, Texas, 78502.

AGENT (if applicable): C.T. Corporation

TYPE OF SERVICE (see reverse for specific type): Citation and attached discovery

SERVICE BY (check one): CONSTABLE _____ RESIDENT __ OUT OF COUNTY __

AUTHORIZED PERSON Tony Gradoni PHONE NO. 713.503.8701

PUBLICATION _____ OTHER _____

(See reverse for types)

(Specify)

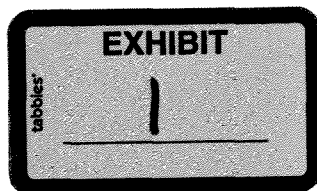
ATTORNEY (OR ATTORNEY'S AGENT) REQUESTING SERVICE:

NAME: Jim Hart TEXAS BAR NO. 09147400

MAILING ADDRESS: 8441 Gulf Freeway, Suite 600, Houston, Texas 77017

AREA CODE: (713) TELEPHONE NO. 230-2317

SERVICE REQUESTS WHICH CAN NOT BE PROCESSED BY THIS OFFICE WILL BE HELD
FOR 30 DAYS PRIOR TO CANCELLATION. SERVICE REQUESTS WILL BE REINSTATED
UPON APPROPRIATE ACTION BY THE PARTIES AND FEES REFUNDED UPON REQUEST OR
AT THE DISPOSITION OF THE CASE.





I, Chris Daniel, District Clerk of Harris County, Texas certify that this is a true and correct copy of the original record filed and or recorded in my office, electronically or hard copy, as it appears on this date.
Witness my official hand and seal of office
this April 5, 2011

Certified Document Number: 47857436 Total Pages: 1

Chris Daniel, DISTRICT CLERK
HARRIS COUNTY, TEXAS

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CHRIS DANIEL
HARRIS COUNTY DISTRICT CLERK

AT Y

CIVIL BUREAU
PROCESS PICK-UP FORM

CAUSE NUMBER: 2011-09502

REQUESTING ATTORNEY/FIRM NOTIFICATION

Attorney: <u>Jim S Hart</u>	Phone: <u>713 230 2317</u>
Civil Process Server: <u>Tony Gradoni</u>	Phone: <u>713 530 503 8701</u>
Attorney/Firm Notified Service Ready: <u>02-16-2011</u>	Notified: <u>left message @ 10:53</u>
<small>Date</small>	<small>Name of Party Notified</small>
Contacted By: <u>Nelson Cuero</u>	Service Sent to Case File: _____
<small>Deputy District Clerk</small>	<small>Date</small>

Type of Service Document: <u>CIT</u>	Tracking number: <u>72633882</u>
Type of Service Document: _____	Tracking number: _____
Type of Service Document: _____	Tracking number: _____
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Type of Service Document: _____	Tracking number: _____

The above process papers were prepared by: Nelson Cuero

Deputy District Clerk

On this the 16th day of February, 2011,

Process papers picked up by: <u>MT Snyker</u>	<small>Signature</small>
On this the <u>16th</u> day of <u>FEB</u> , 2011 at <u>3:45</u> time.	



I, Chris Daniel, District Clerk of Harris County, Texas certify that this is a true and correct copy of the original record filed and or recorded in my office, electronically or hard copy, as it appears on this date.

Witness my official hand and seal of office this April 5, 2011

Certified Document Number: 47912672 Total Pages: 1

Chris Daniel, DISTRICT CLERK
HARRIS COUNTY, TEXAS

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2011-09502 / Court: 133

Filed 11 February 15 A11:04
Chris Daniel - District Clerk
Harris County
ED101J016178408
By: Furshilla McGee

CAUSE NO. _____

L'LONI BUSH-LOMBARDI,
Plaintiff,

VS.

JOHNSON CONTROLS, INC.,
Defendants.

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IN THE DISTRICT COURT OF

HARRIS COUNTY, T E X A S

_____ JUDICIAL DISTRICT

PLAINTIFF'S FIRST ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, L'LONI BUSH-LOMBARDI, Plaintiff herein, complaining of
Defendant Johnson Controls, Inc., and would respectfully show the Court as follows:

**I.
DISCOVERY**

1. Plaintiff intends discovery in this case to be conducted under the
provisions of Texas Rules of Civil Procedure 190.4 (Level 3).

**II.
PARTIES**

2. Plaintiff, L'Loni Bush-Lombardi, an individual, is a resident of Harris
County, Texas.

3. Defendant, JOHNSON CONTROLS, INC., is a Texas Corporation
conducting business from its office at 10644 West Little York Rd, Suite 200, in Houston,
Harris County, Texas 77043 and may be served with process through its registered agent
CT Corporation at 350 North Saint Paul Street in Dallas, Texas 785201.



**III.
JURISDICTION**

4. This Court has jurisdiction over the lawsuit because the amount in controversy exceeds this court's minimum jurisdictional requirements.

**IV.
VENUE**

5. Harris County, Texas is the property venue for this case under Tex. Civ. Prac. & Rem. Code Ann. § 15.002, because at the time the cause of action accrued, the principal office of Johnson Controls, Inc., was in Harris County, Texas.

**V.
FACTS**

6. On September 16, 2010, L'Loni Bush Lombardi was working as a supervisor for Continental Airlines, Inc., at Bush Intercontinental Airport in Houston, Texas. Prior to such date, Johnson Controls, Inc. had been called to Bush Intercontinental Airport to modify the ramp used to connect aircrafts to passenger gates. The end part of the ramp closest to the aircraft was modified so that smaller aircraft utilizing said ramp would be accommodated.

7. On said date, Ms. Lombardi was called out to the ramp area which had been previously modified by Johnson Controls, Inc. as a result of difficulties with the ramp. Ms. Lombardi proceeded onto the ramp and began cautioning passengers against stepping onto the ramp that linked the passenger gate to the aircraft.

8. Although Ms. Lombardi was partially standing on the part of the ramp that had not been modified, the ramp suddenly gave way under Ms. Lombardi's feet. As a result of the ramp failure, Ms. Lombardi was violently dropped approximately 14 feet onto the concrete ground.

9. Ms. Lombardi suffered major debilitating injuries because of this incident. Specifically, she suffered from a broken ankle and wrist as well as impact to her head. Ms. Lombardi's injuries were so grave that she was unable to carry herself from the scene of the accident.

VI.
CAUSE OF ACTION
Negligence

10. Defendant's employees owed a legal duty to Plaintiff. They owed a duty to act with ordinary care in modifying the ramp. They had a duty to exercise reasonable care while modifying the ramp and not perform their work in a manner which presented a foreseeable risk of injury to another person. Therefore, Defendant's employees had a duty to modify the ramp in such a way that it would maintain its integrity and sturdiness.

11. Defendants breached the duty to Plaintiff by

- a. Failing to use reasonable care while modifying said ramp to accommodate smaller aircraft;
- b. Failing to recognize that the ramp was not capable of performing at or even below its capacity;
- c. Failing to properly control the instability of the ramp by improperly making adjustments;
- d. Failing to warn Plaintiff and others that the conditions existed in creating the ramp hazard and its severity;
- f. Failing to modify the ramp as a person of ordinary prudence would have done in the same or similar circumstance.

12 The foregoing acts and/or omissions, singularly or in combination with others, constitute a breach of duty that proximately caused Plaintiff's injuries and damages.

13. Defendant is therefore liable the negligent activities which proximately caused injury to the Plaintiff and resulted in the damages listed above.

**V.
DAMAGES**

14. Accordingly, Plaintiff respectfully requests Defendants to be cited and appear and Plaintiff to have judgment against Defendants for:

- a. The physical pain and mental anguish Plaintiff has suffered in the past and in all reasonable probability will continue to suffer in the future;
- b. The amount of reasonable medical expenses necessarily incurred in the past and in reasonable probability will be incurred in the future for the treatment of Plaintiff's injuries;
- c. The amount of reasonable wages for back pay and future earnings, including all accrued interest, insurance benefits, pension benefits, vacation benefits, sick leave, and other incidental benefits that attach to and were included in Plaintiff's employment;
- d. The damages resulting from the physical impairment Plaintiff suffered in the past and will continue to suffer in the future and the resulting inability to perform those tasks and services he ordinarily would have been able to perform in the future beyond the time of trial;
- e. The amount of damages resulting from Plaintiff's loss of earning capacity
- f. Costs of suit;
- g. Disfigurement;
- h. Exemplary damages; and
- i. Such other relief to which Plaintiff may be entitled.

15. Plaintiff seeks unliquidated damages within the jurisdictional limits of this Court.

**VI.
JURY DEMAND**

16. Plaintiff demands a jury trial and tenders the appropriate fee with this petition.

**VII.
REQUEST FOR DISCLOSURE**

17. Under Texas Rules of Civil Procedure, Rule 194, Plaintiff is requesting that Defendant disclose, within 50 days of service of this request, the information or material described in Texas Rules of Civil Procedure, Rule 194.2

**VIII.
PRAYER**

18. For these reasons, Plaintiff asks that the Court issue citation for Defendant to appear and answer, and that Plaintiff be awarded a judgment against Defendant for the following:

- a. Actual damages;
- b. Exemplary damages,
- c. Prejudgment and postjudgment interest;
- d. Court costs;
- e. All other relief to which Plaintiff is entitled.

Respectfully submitted,

WILLIAMS KHERKHER HART BOUNDAS, LLP

By: 

ELOY GATTÁN

State Bar No. 00790730

8441 Gulf Freeway, Suite 600

Houston, Texas 77017

(713) 230-2200 Telephone

(713) 643-6226 Facsimile

ATTORNEY FOR PLAINTIFF



I, Chris Daniel, District Clerk of Harris County, Texas certify that this is a true and correct copy of the original record filed and or recorded in my office, electronically or hard copy, as it appears on this date.
Witness my official hand and seal of office
this April 5, 2011

Certified Document Number: 47857435 Total Pages: 6

Chris Daniel, DISTRICT CLERK
HARRIS COUNTY, TEXAS

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Filed 11 April 4 P4:21
Chris Daniel - District Clerk
Harris County
ED101J016251346
By: Nelson Cuero

NO. 2011-09502

L'LONI BUSH-LOMBARDI	§	IN THE DISTRICT COURT OF
<i>Plaintiff,</i>	§	
	§	
V.	§	HARRIS COUNTY, TEXAS
	§	
JOHNSON CONTROLS, INC.,	§	
<i>Defendant.</i>	§	133RD JUDICIAL DISTRICT

DEFENDANT JOHNSON CONTROLS, INC.'S ORIGINAL ANSWER

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, Defendant Johnson Controls, Inc. ("JCI") and files its Original Answer and would respectfully show the Court as follows:

**I.
GENERAL DENIAL**

Subject to such stipulations and admissions as may be made hereafter, JCI hereby enters a general denial as permitted by Rule 92 of the Texas Rules of Civil Procedure and requests that Plaintiff be required to prove by the preponderance of the evidence the charges and allegations which she has made against it.

**II.
AFFIRMATIVE DEFENSES**

JCI would show that the incident in question and Plaintiff's alleged resulting damages, if any, were the result of negligent acts and/or omissions of others not under the control of JCI, including Plaintiff, whose acts or omissions were, alternatively, a proximate cause or producing cause or a contributing proximate cause or a contributing producing cause or the sole proximate cause or the sole producing cause of the incident



in question, and any alleged damages sustained therefrom; JCI therefore invokes the doctrine of comparative causation.

JCI asserts the affirmative defense of new and independent cause, and would show that an act or omission of a separate and independent agency, not reasonably foreseeable, destroyed the causal connection, if any, between the act or omission alleged in the occurrence in question and thereby became the immediate cause of such occurrence.

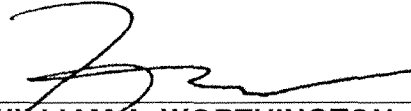
III. JURY DEMAND

JCI demands a trial by jury.

WHEREFORE, PREMISES CONSIDERED, Defendant Johnson Controls, Inc. prays that, upon final hearing hereof, judgment be rendered that the Plaintiff take nothing by her lawsuit, that it recover its costs in its behalf expended and for further such relief as may be proper.

Respectfully submitted,

STRASBURGER & PRICE, LLP



WILLIAM A. WORTHINGTON

STATE BAR NO. 22010300

ZACHARY W. THOMAS

STATE BAR NO. 24070739

1401 MCKINNEY STREET

SUITE 2200

HOUSTON, TEXAS 77010-4035

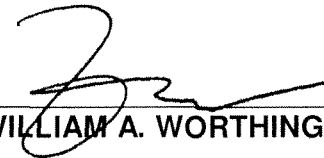
(713) 951-5600

(713) 951-5660 Fax

**ATTORNEYS FOR DEFENDANT
JOHNSON CONTROLS, INC.**

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the above and foregoing document has been forwarded to all counsel of record on this the 4th day of April, 2011, via certified mail, return receipt requested.



WILLIAM A. WORTHINGTON



I, Chris Daniel, District Clerk of Harris County, Texas certify that this is a true and correct copy of the original record filed and or recorded in my office, electronically or hard copy, as it appears on this date.
Witness my official hand and seal of office
this April 5, 2011

Certified Document Number: 48348321 Total Pages: 3

Chris Daniel, DISTRICT CLERK
HARRIS COUNTY, TEXAS

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